DEPUTY PRESIDENT: Mr. Kayyalam Paramesvaran Pillai will be the chairman of the Select Committee.

THE TRAVANCORE LIMITATION REGULATION AMENDING BILL.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) . Sir, I beg to introduce a Bill to amend the Travancore Limitation Regulation. The Bill has been published in the Gazette with a statement of objects and reasons. I move that the Bill be read in Council.

MR. N. NILAKANTA PILLAI (*Secretary to Government on other duty*): I second it.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): This amendment relates to Article 144 of the Limitation Regulation. Under that Article, complaints of offences under certain Sections of the Penal Code have to be preferred within a particular period, and those sections are mentioned in that article. But that Article refers to "Penal Code" merely and does not say that it is the Travancore Penal Code. It will be seen that these sections really refer to the sections of the Indian Penal Code. In order that the references in the article may be uniform with other laws in force in the State, I have brought this amendment altering the number of sections and substituting the corresponding sections of the Travancore Penal Code. I believe this will be accepted by the house.

DEPUTY PRESIDENT: May I take it that the House accepts the Bill? The principle of the Bill was accepted by the House.

The Secretary then read the title of the Bill.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): The proposed amendment is a simple matter and I do not think it is necessary to refer it to a Select Committee. I may also point out that the Limitation Regulation is to come into operation on the 1st of Makaram 1101; and it is desirable that this amendment also must come into effect on or before that date. I therefore move that the Bill be taken into consideration at once and request you Sir, to permit me to make the motion.

DEPUTY PRESIDENT: Yes, I allow it.

MR. N. NILAKANTA PILLAI (*Secretary to Government on other duty*): I second the motion.

I further move that the Bill be taken up for final reading and passed on a future day in this session itself of which notice will be given to the members.

MR. K. GEORGE (*Financial Secretary to Government*): I second it.

The motion was carried.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Sir, I beg to introduce a Bill to amend the Income Tax Regulation. The Bill has been published with a statement of objects and reasons in the *Gazette* and I move that the Bill be read in Council.

MR. N. NILAKANTA PILLAI (*Secretary to Government on other duty*) : I second it.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : The substantial change that is sought to be introduced by the proposed amendment relates to the definition of the expression "agricultural income" occuring in the Income Tax Regulation. "Agricultural income" means income derived from cultivation. That is the meaning in common parlance. But in the Income Tax Regulation, certain limitations are fixed in regard to the definition of "agricultural income." The importance of this definition which may be called a statutory definition consists in this, namely, that agricultural income coming under the definition of it in the Regulation is exempt from income tax. Income by means of cultivation is derived directly from land, and land as a rule is subject to land tax. That tax represents a definite proportion of the income derivable from the land by being put to agricultural purposes, it may be put to. In so far as the Income Tax Regulation is concerned, when the income tax is sought to be imposed, care is taken to see that the tax is not imposed on such lands as are already liable to land tax. On the other hand, if the land is free from land tax, income tax is sought to be imposed on the income derivable from that land. This principle namely that income tax is to be imposed on lands which are free from land tax is accepted in income tax law. That is the law in British India.

MR. K. K. THOMAS (*Kottayam*) : May I know whether the Zemindari lands are taxed ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I believe they are taxed. If they are not paying any land tax to Government, those lands would be taxed.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*) : Are the Zamindaries and ryots separately taxed ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I cannot say.

MR. K. K. THOMAS (*Kottayam*) : May I know what will be done in case the Zamindar gets the rent due to Government ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : In that case, the income from the land is exempt from income tax.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*) : What do you say about the Edavagai lands ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I shall come to that. The principle underlying the proposed

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayyalam Parameswaran Pillai.]

definition in our Regulation also is in consonance with the foregoing, because it will be seen from the definition of the words "agricultural income" in section 2 that the land should be one that is already paying tax to Government. The following is the definition —

"Agricultural income means any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue or subject to a local rate assessed and collected by officers of Our Government (as such) for and on behalf of Government."

So that if the land income should be exempt from income tax, the land should be such as is already paying land tax.

It will be seen however from the subsequent portion of the definition, namely, the definition in the other classes of income from agricultural lands that it is not expressly mentioned as in clause (i) that the land should be one paying land tax. Therefore this limitation, namely that the land must be one that is already paying a land tax does not apply to that portion of the definition which relates to the income from agricultural land other than revenue or rent. The object of this Regulation is to make it clear that, in the case of every land, if income from it should be exempt from income tax, the land must be one paying land tax.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): May I know whether the portion was not advisedly worded so.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I shall come to that. It will be seen that the definition of agricultural income has an important bearing on the liability to pay income tax and therefore it is the interest of the taxpayer to try to include as many classes of income under "agricultural income". On the other hand, I may say that the other side will argue that it is to the interests of the tax gatherer to exclude as many as possible from "agricultural income". So that the House may appreciate the practical effect of the change sought to be introduced by this Bill. I shall narrate the incident that immediately led to the introduction of this Bill.

There is a Tea Company in Mundakayam which has its tea plantations in Edavagai lands which, as the House knows, are free from land tax. As the House is aware, the income derived from tea industry is not derived by cultivation alone. The tea is partly a factory produce also. The tea bushes are grown by cultivation and the leaves are rolled into marketable tea by machinery. It is taken by a rough and ready method that about one-fourth of the income from tea represents the factory industry and the remaining is due to cultivation or agriculture. The one-fourth is of course not agricultural income and is therefore liable to income tax. But in regard to the balance three-fourths, the income tax authorities assessed it to income tax on the ground that, although it is derived by cultivation, it is not "agricultural income" as the land on which cultivation is done is not paying

LIBRARY ARCHIVES Kerala Legislative Assembly

land tax. The company contended that as the income is due to cultivation, it is free from income tax, irrespective of the fact that the land pays land tax or not.

MR. K. K. THOMAS (*Kottayam*): Does the Company pay any tax to the Edavagai?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Most probably they pay. That question does not arise here.

The High Court held that the Company's contention was correct because the limitation that the land must be one paying land tax is not expressly mentioned in the clause relating to the income derived from cultivation and therefore the income referred to is not liable to be taxed. It is therefore that the Government have come to this House with this amendment.

Mr. Matthew asked whether that clause was not advisedly so put. Probably he had in mind also the fact that this House amended the Income Tax Regulation only so very recently as last year. It is no doubt true that this amendment of the Regulation has been brought before the House so soon after the Regulation has been amended by the last Council. But there are weighty reasons which induced the Government to introduce the amendment so soon. Government have been put to very great loss of revenue, as a result of the ruling of the High Court regarding the interpretation to be put upon the definition of 'agricultural income', occurring in the Income Tax Regulation. Government have already lost two or three lakhs of rupees in the shape of income tax derivable from agricultural income, and, probably, about a lakh of rupees, which has already been collected has to be refunded from the Government Treasury. In future also, there will be a recurring loss of about one or two lakhs of rupees or more, every year, on account of the ruling of the High Court. I believe the House will consider this as sufficient reason, for Government, to appeal to this House once again so soon for amending the law.

I may also bring to the notice of the House that the definition, which I propose to introduce, is not novel. It occurs in the British Indian Act and also in the Mysore Regulation. A question was asked whether these Edavagais are not paying income tax to Government. I may say in this connection that the provision which I propose to introduce does not at all affect the Edavagai Chief or the proprietor. They come under the Regulation, even as it is. This is clear from the first portion, of the definition of "agricultural income" which runs as follows:—

> "(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue or subject to a local rate ....."

The income of the Edavagai Chief is mostly revenue or rent, and, therefore, is already within the purview of this Regulation because his land is not paying land tax.

Another point that was raised is whether the cultivators would not be affected. Certainly, that is a matter which has to be considered by

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayyalam Parameswaran Pillai.]

this House. What I wish to bring to the notice of the House, in regard to that matter, is that the ordinary tenant who actually cultivates the land will not be affected by this amendment, because the Income Tax Regulation applies only to the rich and not to the poor.

MR. K. MADHAVAN PILLAI (*Trivandrum cum Neduvangad*): Suppose there is a rich man among the tenants. Will he not be affected by the amendment?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Income tax is not levied on incomes less than Rs. 2,000 per annum. Ordinarily the actual tillers of lands do not make Rs. 2,000 a year. Therefore, this amendment does not in effect affect the actual cultivators of lands. But, it will affect capitalist-cultivators—if I may so call them—who invest large capital and carry on cultivation on a very large scale.

MR. A. K. PILLAI (*Karunagapalli*): Does the Law Member realise that the amendment affects adversely wholesale cultivation, which is economically more efficient? Does he know that the world opinion of to-day is against disintegration of lands?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I may accept the assurance of the member in that matter. But, that does not affect the question.

MR. A. K. PILLAI (*Karunagapalli*): Is the Law Member aware that the world opinion is in favour of large-scale cultivation?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I am not prepared to concede that the world opinion is in favour of cultivation on a very large scale. Up to a certain limit, the world opinion may be in favour of large-scale cultivation.

MR. A. K. PILLAI (*Karunagapalli*): Does the Law Member think that Rs. 2,000 income per annum is a very very large income?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Having regard to the conditions in Travancore, I should think that an annual income of Rs. 2,000, purely from cultivation, is large enough.

MR. K. MADHAVAN PILLAI (*Trivandrum cum Neduvangad*): Is it safe to proceed on that assumption in enacting a law?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): We have to look to the conditions in Travancore and consider whether the law affects as a matter of fact persons whom the House desires to exempt. If the House on the other hand wants to exempt cultivators of particular crops, like the cocoanut or the paddy, and if there is a sufficiently large number of such cultivators who get an annual income of more than Rs. 2,000, then, in such a case, Government have got the power to exempt them under Section 43 of the Regulation. Section 43 says,

LIBRARY ARCHIVES Kerala Legislative Assembly

"Our Government may by notification in Our Government Gazette make an exemption, reduction in rate or other modification in respect of income tax in favour of any class of income or in regard to the whole or any part of the income of any class of persons."

As I have already submitted, this amendment does not in effect affect ordinary tillers of the lands.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Will the Law Member please explain that? I am not able to grasp what he says.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Ordinary cultivators do not, as a rule, get an annual income of Rs. 2,000 or more out of agriculture.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : With regard to the exemption clause, the Law Member said that the Government may exempt certain classes of cultivators. I want to know how that helps the Edavagais.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I did not say that it helps the Edavagais. What I said was that, if the Government thought that any class of cultivation, like paddy for instance, deserves to be exempted from payment of income tax, Government have the power to do so.

MR. A. K. PILLAI (*Karunagapalli*) : Are we to understand that, in no case, two taxes will have to be paid?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Yes, the member may take it like that. But some tax must be paid to Government. The land revenue payable to Government represents a definite proportion of the income derivable from land. That is a direct contribution from the land income to Government revenue. Income tax also is a direct contribution from income. If a land is paying a direct contribution by way of land tax, the income therefrom will not be made to pay income tax. If however a particular land is not paying any contribution to the State from its income by way of land tax, it is only reasonable that the income from such land should be assessed to income tax.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) : The Edavagai ryots are paying land tax to the Edavagai Chiefs. Will those lands be doubly taxed?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : They will not be. They are not paying land tax to Government.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) : The Edavagai ryots are paying tax to the Chiefs which corresponds to the land tax that the people are paying to Government.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Why they pay in rent and not tax. In any event, it is not tax paid to Government.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Are the Government tenants assessed to income tax with regard to their agricultural income after deducting the tax paid to Government?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): There is no income tax at all for the income derived from lands which are subjected to payment of land tax to Government. So, that question does not arise.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I believe, the Edavagai tenants are not very much benefited by the fact that the rent, that they pay to their Chiefs, may be deducted from their income before it is assessed to income tax.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): So far as the tenants are concerned, I may say that, as a matter of fact, they are not affected at all, although they may come under the letter of the Regulation; because, as a rule, they have not got an annual income of more than Rs. 2,000.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Have the Government called in a list of tenants who earn more than Rs. 2,000 a year?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): From a knowledge of the conditions in Travancore, one can more or less assume like that.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): On what basis does the Law Member make such assertions?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): On the basis of general knowledge acquired from the executive officers who have had the occasion to move amongst the people of the country.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Has there been any written opinion to that effect?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I think the member is not right in questioning like that as to the manner in which I got the information from executive officers who move amongst the people. As a rule, I think, the tenants in Edavagais are not in a position to make more than Rs. 2,000 a year.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I think there are people who are making more than Rs. 2,000 per annum out of the cocoanut and pepper crops in Edavagai lands. I think Mr. Matthew himself is one of them.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): No.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): The House will see that the object sought to be achieved by the amendment and the practical effect of it will be only to tax large capitalist cultivators making large profits from lands which do not pay anything to Government.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know from Mr. Kayyalam Paramesvaran Pillai whether the rent or revenue, paid by the tenants to the Edavagai Chiefs, is fixed by Government, or whether it is a matter of contract between the tenants and the Chiefs?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Generally speaking, it is a matter of contract between the tenants and the Chiefs.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether this Regulation will apply to *Sri Padom* lands?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I cannot answer that question off-hand.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): I mean the lands the income from which goes to the members of the Royal family.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I think discussions relating to *Sri Padom* lands are not permissible.

DEPUTY PRESIDENT: Moreover, I do not think they are liable to income tax. Anyhow, why do you want to drag in things which are not contemplated by Government?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): What I want to bring prominently to the notice of this House is that it is only the large capitalist cultivators, who are making large incomes out of lands without paying anything to Government, that will be really affected by this amendment.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Is it not possible for them to plead again that their land is already paying tax to Government since they are paying something to the Chiefs. I do not know if the High Court may not again interpret the definition as they have done now.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): The tax must be paid to Government.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): The Edavagai Chiefs are paying tax to Government.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): No. The Poonjar Chief, for instance, is not paying any tax to Government and he is liable to assessment to income tax on the revenue that he derives.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): They may say that the land is already being taxed.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): It is not the land that is taxed. It is the agricultural income derivable from the lands, that is taxed. The Chiefs are not affected by the present amendment. They are already within the purview of the Income Tax Regulation. As I have already submitted, it is not likely that the ordinary cultivator will be affected by this new provision; because, as a rule, they will not get more than Rs. 2,000 a year. It is only reasonable that large capitalist-cultivators, who make large profits without paying anything to Government, are made to pay something to Government.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. X. G. LOPEZ (*Nominated*) : Will the holders of *Kandukrishi* lands be affected by this amendment ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : There is an explanation to the existing definition in the Regulation which says that the rent, paid to Government by holders of *Kandukrishi* lands is within the meaning of the expression '*Land Revenue*'. Therefore they are exempted from payment of income tax.

MR. N. V. JOSEPH (*Parur*) : So far as the share contributed by the land to agricultural wealth is concerned, is there any difference between land owned by Government and an Edavagai land ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I do dot quite follow the question.

MR. N. V. JOSEPH (*Parur*) : The elements that contribute to agricultural wealth are labour, land and capital. So far as the share contributed by land is concerned, is there any difference between land owned by Government and Edavagai lands ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Does the member mean *Pandarapattom* lands by the expression '*lands owned by Government*' ?

MR. N. V. JOSEPH (*Parur*) : Yes.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I do not see any difference.

MR. N. V. JOSEPH (*Parur*) : Then, may I know why one sort of land alone should be assessed to income tax ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Lands that are already paying land tax *to Government* are contributing, to Government revenue, really from the agricultural income ; because land tax is calculated on the income derivable from the land by being put to agricultural use. It is considered reasonable that, in respect of lands the income from which is not at all subjected to any contribution to Government, they should be made to contribute by way of income tax.

MR. N. V. JOSEPH (*Parur*) : May I know why these lands have not been taxed to land revenue ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : That may be owing to several varying circumstances.

MR. N. V. JOSEPH (*Parur*) : Have not the Government exempted these lands from payment of land tax ; and is it just to tax them now in this indirect manner ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : That is a question of policy.

MR. N. V. JOSEPH (*Parur*) : The tax derivable from Edavagai lands were given free to the Chiefs. As a substitute for that, I do not think Government would be justified in taxing them now.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : The Edavagai Chiefs are not taxed by this amendment,

LIBRARY ARCHIVES Kerala Legislative Assembly

This amendment does not touch that question at all. The Chiefs are liable even under the existing law. The House has already passed that law, and that position has already been accepted by the House. Therefore, I think, that question does not arise now. The question of the alleged contract between Government and the Edavagai Chiefs does not arise now. In fact, the real question now under discussion is whether the capitalist-cultivators should be asked to pay anything to Government as contribution for the benefits of good government which they enjoy.

MR. N. V. JOSEPH (*Parur*) : Why not that principle be applied in the case of *Pandarapattom* lands ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : They are already paying *to Government* a direct contribution in the shape of land tax. There is no such payment by the Edavagai lands.

MR. N. V. JOSEPH (*Parur*) : Is it not because they have been exempted, by Government, from payment of tax, as a substitute for their services ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : That question does not arise now. They are to be ascertained by investigation.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Suppose a capitalist-cultivator gets a lease of taxable lands and derives an annual income of more than Rs. 2,000. Is he liable to assessment of income tax ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : He is not.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Why ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Because Government are already getting a direct contribution from the lands.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Who pays that land revenue, is it the owner of the land or the cultivator ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : That is immaterial for the purposes of this Regulation. Government are getting tax from the lands.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : The agent who pays tax is different. In the case of the Edavagai lands, it is the cultivator that is taxed. It is the Edavagai owner that ought to pay the tax.

DEPUTY PRESIDENT : You are arguing, Mr. Panikkar. Mr. Paramesvaran Pillai has already answered your question.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : May I know whether the Edavagais are not portions of Travancore ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Yes, they are.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : May I know how the Edavagai tenants came to pay tax to their Chiefs ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I do not accept the position that what the tenants pay to their Chiefs is tax.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Assuming that it is rent and not tax, does the member know how it has become payable to the Chiefs ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I think it is on account of the contract under which the lands were let out to the tenants.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : How is it that Government do not get any tax from the Edavagai lands ?

DEPUTY PRESIDENT : Each Edavagai has got its own history. Therefore, it may not be possible to give a simple answer applicable to all the Edavagais.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : What I want to know is whether Government have not made a grant of these portions of Travancore to the Chiefs.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : That is not a question which can be answered off-hand. That is a matter which requires investigation and research of historical facts relating to the several Edavagais. What I want to submit for the consideration of the House is that this question, of the relation between the Chiefs and the Government, does not at all arise at present. The House has already decided, while passing the present Regulation, that the income derived by the Chiefs is assessable to income tax.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I do not want any argument. I will myself argue my position. I want to know whether it is not by the act of Government that these Chiefs have become proprietors of the Edavagais.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : It is not possible to give a definite answer to that question just at present.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Is the Law Member aware that, in the case of certain Edavagais, Government have been appointing managers ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Not *as Government.*

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Then, as what ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Probably, by private arrangement.

MR. T. J. MATTHEW (*Changanachery* cum *Peermde*) : Any how, is the Law Member aware that there have been managers, in Edavagais, appointed by Government ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Unless the member refers to specific instances, I do not think I will be ina position to answer him.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : May I know whether, in the case of the Poonjar Edavagai, there has been any manager appointed by Government ?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): There was no appointment by Government in that instance. There was only a loan of services, so far asI know.

MR. G. PARAMESVARAN PILLAI (*Neyyttinkara*): Is it a fact that the Manager was appointed at the instance of the Chief himself ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Probably. But I am not sure.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Is the Law Member aware that, at the time of the settlement in the year 1012, the tax payable from Edavagai lands was assessed in the same manner as tax payable to Government?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): No, I am not aware.

DEPUTY PRESIDENT: We are travelling far from the point.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I would request the House to consider only the real point at issue. There is no question of the relation between the Edavagai proprietor and the Government or between the tenant and the Edavagai proprietor. The practical question is about the capitalist-cultivator who makes a large income without paying anything to Government for the benefits of good government which he enjoys. The question is whether such capitalist-cultivators should not be asked to pay something to Government the benefits of whose good administration enable them to earn the income.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Sir, I oppose the motion. From what the Law Member has stated, what I understood was that the object of Government is only to tax big capitalists. If the amendment has been brought forward with that avowed object, it would have been a more expedient measure. But, under the guise of catching hold of the capitalists, what the Government have now done is to make the holders of lands within Edavagais liable to pay income tax on the income they derive by agriculture.

As regards the method of making big capitalists pay income tax to Government, I submit, this is not at all the proper method. As regards any suggestion that may be made in regard to the matter, I think, this is not the proper place ; because, what has been introduced into the Council now is an amendment of a certain Section of the existing Income Tax Regulation, and that amendment has been introduced with a definite object. However, I may say, that, even at present, these big capitalists who are said to have earned large sums of money without paying anything to Government, are paying income tax upon one-fourth of the profit that they are making. I may bring to the notice of this House the fact that there are big capitalists not only within the Edavagais but also outside. These big capitalists—I mean the owners of rubber and tea estates outside the Edavagais—also make large profits. Do the Government get from them any share of their profits ? The Government are allowing them to go scot-free,

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : That is not quite correct. The tea estates and rubber estates are taxed to land revenue.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): The Commissioner of Income Tax has not probably understood me. My submission is that big capitalists, out-side Edavagais, are not made to pay any tax on the profits they make from the estates. They are no doubt paying land tax for the lands which are in their enjoyment.

MR. J. B. COOK (*Planters*) : Is the member aware that there is export duty on tea ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Yes, there is; and that is true not only with regard to capitalists outside Edavagais. Even those capitalists, who are within the Edavagais, have to pay export duty on their tea. Therefore, that does not, in any way, solve the difficulty. The export duty is a tax which applies to all alike.

What the Government want to do is to obtain a portion of the income realised within the Edavagais and at the same time be satisfied with the land tax in the case of tenants outside the Edavagai. What I want to bring to the notice of this House is that there is distinction between paying tax upon the acreage of land and paying tax upon the total revenue. I may illustrate it by an example. Take, for instance, 10 acres of tea lands outside the Edavagai which may bring in a land tax of Rs. 20. But if these 10 acres of land are planted with tea, it may bring in an income of 2 thousands of rupees. It may not be an exact figure. What I want to bring to the notice of the House is that it would not be in any way near to Rs. 20. But if tea is produced outside the Edavagai, Government are satisfied with what they get as land tax.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : May I ask Mr. Matthew whether the people inside the Edavagais pay any tax to Government for all the conveniences they enjoy from them ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I would answer him by asking him whether this is the income to be derived in return from the Edavagais for the services rendered by a good government.

DEPUTY PRESIDENT : He is not in possession of the House. He will answer in his reply.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): That is the answer I would give. I was saying that Government want to create a distinction between the Estate land holders outside the Edavagais and inside the Edavagais.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : Is Mr. Matthew aware that practically one-third of Travancore—

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I do not hear him.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : Does the member know that approximately one-third of Travancore pays for the upkeep of the whole of Travancore.

DEPUTY PRESIDENT : What Mr. Robinson says is that one-third of Travancore pays for the upkeep of the whole of Travancore. What he means to say is that Edavagais form one-third of Travancore, Reserved forests one-third and *pandarapattom* lands one-third.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I would say that the tenants of Edavagai are not responsible for the reserved forests.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : Does the member know that approximately one-third of Travancore is reserved forests, approximately one-third of Travancore is Edavagais and other non-tax paying lands and approximately one-third is Sirkar tax-paying land ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I do not admit that one-third of Travancore forms Edavagai lands.

DEPUTY PRESIDENT : He does not admit that and you may explain it in your speech, Mr. Robinson.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I have to bring to the notice of this House another fact namely that these big capitalists within the Edavagais ought to pay income tax upon one-fourth of the profits they make. It is not true to say that the big capitalists within the Edavagai are not paying anything to Government.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) : May I know from the member whether the income tax affects rubber and tea or only tea ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : May I point out to the member that it affects only the profit on tea industry to the extent of one-fourth ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Of course it may be made applicable to other things also.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : Does the member admit that if all pay their tax—

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I do not exactly catch him.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : If every portion of Travancore pays tax, will it not lighten the tax that is being paid by the one-third ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : According to me every portion of Travancore *is* paying tax. There is no portion which is exempt from payment of tax.

DEPUTY PRESIDENT : According to Mr. Robinson, the Edavagai is not paying.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : That is due to Government's own fault.

DEPUTY PRESIDENT : That fault is now sought to be rectified, I think, by the present Bill.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : My submission is that it must not be made a burden upon the tenants of Edavagais but it must be collected from persons to whom the Edavagais were given because the taxes due from them were gifted to them.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): May I know from the member whether the rich people in the Edavagai lands are now paying for the benefits they enjoy by way of roads, hospitals, etc.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Yes; they are paying more than other tenants in Travancore pay.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : Are they paying any sum to *Government* ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I am making my own submission to this House. These are the questions arising in the middle and so I cannot deal with all of them at the same time. I was saying that the capitalists within the Edavagais are also making a contribution in the shape of income tax to Government.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : May I ask the member whether he has a knowledge of the Edavagai landholders ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Oh, yes. Therefore I know it is not correct to say that the tenants of the Edavagai are not making any contribution to the Government.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : May I know from the member what contribution they are making ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I have stated it, *viz.*, they pay it in the shape of income tax on tea.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : May I know from the member whether *all* the tenants in the Edavagais are tea cultivators ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : The Law Member said that big cultivators are tea planters.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) : What about the rubber planters ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I beg to suggest that, with regard to them, some measures for payment of income tax may be adopted. But my complaint is that under the present proposal for catching hold of rubber manufacturers or tea estates, we are trying to make an invidious distinction in the case of Travancore subjects and tenants in Edavagais. The Law Member was not able to give this House any definite information with regard to the history of the Edavagais. I put him a question how it was that the Chiefs of Edavagais came to realise

LIBRARY ARCHIVES Kerala Legislative Assembly

tax from these Edavagais. If I remember well, the Law Member of the last Council has very correctly stated in the course of discussion of this Regulation that the tenants in Edavagais are paying *rajabhogam* to the Chiefs, which is revenue due to the Sovereign.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): I think the definition of *rajabhogam* is not exactly correct. It is not a tax to Government and the Government is only the *karanavan* of the *tarwad* and the general treasury does not get it.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, I do not think that the Land Revenue Commissioner is in order in supplying information when I am making a speech.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): I was going to ask Mr. Matthew a question.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): If I am making a wrong statement, he is at liberty to bring it to the notice of the House when he speaks.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know from the member whether the Edavagai Chiefs are also known as Rajas?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): They are. When the Travancore Government subjugated portions of Travancore now constituting the Edavagais,——

DEPUTY PRESIDENT: Ancient History is not relevant to the discussion.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Yes, it may not be relevant. But it is useful to say that it is no fault of the tenant. My submission is that these Edavagais are grants made by Sovereigns in favour of the Edavagai Chiefs.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know from the member whether, when those grants were made, large scale industries such as rubber and tea were contemplated?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I think so. They must have contemplated that. What I wish to bring to the notice of the House is that when Government made that grant, they made the grant of the tax due to them from the holders of land within the grant. It is not the fault of the tenants who are inhabiting the Edavagai that their land tax is not paid to the Government, and I submit that the tenants have no objection to pay land tax to Government direct.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Is the member willing to allow the Edavagai Chief to look after the administration of civil and criminal justice, opening of roads, hospitals, etc.?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): So far as the tenants are concerned, they are quite willing to the proposal made by the Law Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): May I ask the member whether the people are willing to see the Government withdraw all such benefits so far as the Edavagais are concerned ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): We have no objection.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Is the member aware that such a contingency will not arise at all? (*Laughter*).

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Whether such a contingency would arise or not, my submission is that the tax which the tenants pay to the Chiefs should be considered as the tax paid to the Government.

DEPUTY PRESIDENT: We will now adjourn and meet again at 3 o'clock.

The Council adjourned for lunch at 2-15 P. M. and re-assembled at 3-5 P. M., the President presiding.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): With regard to the origin of the *Edavagais*, I have been saying that it is the Government that constituted them and made a grant of the tax due from lands within them to be collected by the Chiefs themselves instead of by Government officials. In the Settlement of 1012, Sirkar lands as well as lands within the *Edavagais* were settled together. When the *purayidoms* and paddy lands within the *Edavagais* were settled, the assessment of *Edavagai* lands was made on the same footing as the assessment on lands outside *Edavagais*, and the total amount thus ascertained was granted to the Chiefs by the Government. I may also say that the subsequent history of these *Edavagais* also confirms the view that they are portions of Travancore and are treated as belonging to Travancore Government with the only distinction that the tax is paid to the Chiefs instead of to Government direct. This House knows that the *Edavagais* of Edapally and Kilimanoor are now governed by Regulation IV of 1068. According to that Regulation, the rate of assessment has to be in conformity with the rate of assessment obtaining within Travancore and tenants have to pay the tax on the footing of the tax paid to Government. In the recent Settlement, these two *Edavagais* were brought under Settlement and the same rate prevails as outside the *Edavagais*. What the tenants in these two *Edavagais* are doing is that they are paying the tax due on their *purayidoms* and paddy lands to their Chiefs instead of paying it to the Government. If, therefore, the tenants within the *Edavagais* are paying tax to their Chiefs, it is no fault of theirs. It is, on account of, I would say, a contract between the Government and the Chiefs and not on account of a contract between the tenants and the Government. Therefore it cannot be said that the tenants are not paying land tax to Government. Take, for example, a hypothetical case. Suppose the Travancore Government choose to make a grant of the land revenue gatherable from one of the taluks, say Trivandrum, to another person. Subsequent to such a grant, the tax will be payable to that gentleman. It cannot be said that the

LIBRARY ARCHIVES Kerala Legislative Assembly

tax is not paid to the Government because it is collected by another agency. It is exactly the case with regard to these Chiefs. They are enjoying the benefits of the tax paid by the tenants as the Government had made a grant of the same to the *Edavagai* Chiefs. Therefore, I ask, are the tenants in any way to be found fault with? The inhabitants of these *Edavagais* are subjects of Travancore as the other subjects of Travancore are. I would submit that there is no equity in treating them differently from the way in which the subjects of the State, *i. e.*, outside the *Edavagais* are treated. Therefore my contention is that if it is inequitable to tax the tenants outside the *Edavagais* in the way in which it is proposed to tax by the amending Bill, I submit that there is no cause or justification to tax the tenants within the *Edavagai* alone. The tenants outside the *Edavagai* may be gathering a lakh of rupees out of the profits from their paddy lands and from their *purayidoms*. Take the case of a person who obtains a profit of a lakh of rupees. Such instances are not very rare in Travancore; yet for the amount of gain he is not paying an income tax but he is paying only tax upon the land in his possession, and proportionately the tax will be small. Take the case of the tenants in an *Edavagai*. A person who pays tax to the Chief and is not paying the tax to Government and earns a profit of two thousand rupees is made liable to pay an income tax while a person who is fifty times richer is not to pay any income tax. It is said that the tenants within the *Edavagai* enjoy the benefits of the beneficent rule of the Travancore Government and so they ought to contribute something for that. I have already stated that what he contributes to the *Edavagai* is what is really paid to the Sirkar. Even granting that it is not so, there must be equality between the treatment afforded to the tenants in the *Edavagai* and the tenants outside. In the case of the illustration I just now referred to, a person who earns from his lands a lakh of rupees is only paying a land revenue for the land which he owns. Whilst, the person in the *Edavagai* will be paying about forty rupees if he earns two thousand rupees from his lands. I contend therefore that there is no proportion whatever. If on the ground that the tenants in the *Edavagais* are not paying any tax to Government, they ought to contribute something, they may be asked to pay something which must be in proportion to the amount contributed by the subjects of this State outside the *Edavagais*.

Another fact I have to bring to the notice of this House is that the tenants in the *Edavagai* are paying really income tax to Government. The Law Member in his speech has been adverting to the fact that, under the present Regulation, the Chiefs of *Edavagais* are paying income tax upon the total amount of rent realised from their tenants. Therefore, from the profit earned within the *Edavagai*, a portion is paid to the Government as income tax.

In the last Council, when it was discussed whether the Chiefs ought to pay income tax to Government, I remember, or rather, I have read in the Proceedings, that the then Law Member stated that you could not tax the proprietor and the tenant *both together* for income from the *same* land. It is exactly the reverse of what was admitted there that

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. J. Matthew.]

is now being imposed upon the tenants of the Edavagais. In the last Council, when the Income Tax Amending Bill was discussed, the question of taxing even the Chief was disputed. It was admitted, in the course of the discussion, that *both* the tenant and the Chief could not be taxed to income tax. It was admitted that it would be inequitable. I may also state that, in the last Council, when the Amendment Bill was introduced, it was proposed to tax the tenant also. But this House disapproved of the procedure and the present Regulation which has been passed by this Council, only about six months back has given us the advantage, I would say, or rather, the justice that we need not pay twice, once to the Chief and once to the Sirkar. I therefore appeal to the good sense of this House that a matter that has been once discussed and upon which this House has once pronounced a decision should not be altered on principles of justice and equity.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I just point out to Mr. Matthew that the principle was affirmed by this House and that it was only in the Select Committee that the matter was decided against?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I thought that, when the report of the Select Committee was submitted to this House and when this House approved of the report, the Regulation then passed was passed by this House independently of the Select Committee; and I think I am right in saying that the Amendment Bill has been passed as it is by this House, and that this House had approved of the contention that the tenants should not be taxed.

I do not deny the fact that this House has full *power* to tax the tenants in the Edavagais. They have that *power*. They have power not only to tax the tenants in Edavagais but also the tenants outside the Edavagais and they have the right to impose any tax on them all. I am appealing to the House and placing before the House the justice of the cause. I am asking the members of this House to consider whether it is equitable to treat the tenants inside the Edavagais and the tenants outside the Edavagais in a different manner, when both of them are loyal subjects of His Highness the Maha Raja of Travancore. In the course of his address, the Law Member was saying that this House had the *right*. But that is a different matter. The question is whether it is *equitable* and *just* to ask the tenants in the Edavagais to pay a disproportionate amount as tax, on the ground that they are paying land tax only to the Chief. When the Law Member was being questioned, he gave answers to the effect that it was not necessary to consider the history of the Edavagais or the way by which the tenants came to pay the tax to the Chiefs. I submit, that, in considering the question of the justice of the measure, a consideration of that fact is absolutely necessary. Now we have had a recent instance of the Ezhumattur *pakuthi*. The Government settled the Ezhumattur *pakuthi* in conjunction with the rest of Travancore and assessed that *pakuthi* in the same way as they assessed *pandarapattam* lands in other parts of

LIBRARY ARCHIVES Kerala Legislative Assembly

Travancore. Now, on account of a decision of the High Court, the Ezhumattur *pakuthi* has been found to belong to the Ezhumattur Rajas and the High Court has declared that they have the right to collect the tax assessed by Government upon those lands. They are completely satisfied with that. They are collecting the tax due to the Government assessed in the settlement by Government as Government tax. On account of the High Court decision, those tenants are paying the tax to the Chiefs. Is it reasonable to contend and say that it is not Government tax? Government assessed those lands to tax as Government lands. The history of the other Edavagais, perhaps, is older; and therefore you are not able to trace out so definitely the particular way in which they passed out of the hands of the Travancore Government. I therefore appeal to this House that this Regulation should not be allowed to be introduced in this Council.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I also oppose the principle involved in this Bill. The chief points to be considered are the nature of the Edavagai lands and the position of the tenants therein. If I understand correctly, the Edavagai lands are freehold lands which are *not* liable to *any* assessment whatever to the Government. The Law Member seems to argue that it is only the soil, that is, the actual earth, that is not assessable, but if anything is grown on that soil it could be assessed. I fail to understand the reason or the logic of such a position. This is only taxing indirectly what is prohibited directly. If the lands are not really liable to any assessment, it is not at all fair or proper to assess anything on what is grown on that land. If the intention of the Government in saying that these lands are freehold is only to consider that the lands, so long as they are left wild and uncultivated, are not liable for anything, but if those lands are cultivated, at that particular moment the lands become liable to assessment, I do not think that such a position is in any way justifiable.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): പണ്ടാരപാട്ട ഭൂമികളിൽ തന്നെവൃക്ഷങ്ങൾ വെച്ചുണ്ടാക്കുമ്പോൾ അതിലേക്ക പ്രത്യേകം കരം വയ്ക്കുന്നുണ്ടെന്ന മെമ്പർക്ക് അറിയാമോ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): That is what I am also saying. The Government assess only those lands where any cultivation is actually carried on. If any place is not cultivated, so long as it is Government property, it is not taxed, but in the case of *pandaravaka* land which is registered in the name of any particular individual, even though it is not cultivated, that individual is assessed to Government tax. But, in the very nature of these freehold estates, I say, since the lands are completely free from any sort of assessment, it is not proper to assess anything on the produce out of those lands. It cannot be stated that only the soil, the mere earth, is not liable to assessment, but if you plant anything upon it, if you cultivate even a single tapioca on that land, the revenue that is derived from that land, however little it might be, is liable to be assessed. I cannot understand such a position. Suppose there is one cent of land. You say that that one cent of land

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. I. Joseph.]

is not liable to assessment so long as it is uncultivated. But if ten tapioca plants are cultivated and if you get ten chackrams out of them, then those ten chackrams are liable to assessment. Such a position I cannot understand. It is completely meaningless.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Is a building put up on such a land liable to income tax?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): That is another matter. We are concerned only with the question of agricultural income here. We are not concerned with buildings put up on those lands. We are concerned only with the agricultural income that is derived from these unassessable lands. I do not think any man can in any way advocate such a principle. If the lands are themselves not liable to assessment, how can one assess the income that is derived from them?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): May I ask Mr. Joseph whether he is aware of the reason why agricultural income is exempt from income tax?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): That is exactly what I was about to say. In the case of Government lands, agricultural income is excluded because Government is realising a tax out of those lands. In the case of the freehold lands, the Government has no right whatever to charge any assessment on that land. There lies the only difference. In the case of the *pandaravaka* lands, the Government really possess a proprietary right over those lands. In the case of the Edavagai lands, whatever right the Government had, has been given up to the Chief of that freehold estate, and so it is not proper for the Government to charge anything out of that.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): Would the member also advocate that the income derived from paddy lands outside Travancore and brought into Travancore, should be exempt from income tax?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): In that case,—

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): Would the member advocate such income being exempted from income tax or not being exempted from income tax?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I do not think I can be forced to say yes or no. I think I am at liberty to explain the position. I say that that case is entirely different from the one under consideration. In the case of income derived outside Travancore, though by a Travancore subject, when brought into Travancore, it is only proper that such income should be assessed. I fully understand that position. But as regards the Edavagai lands, the question is completely different.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): Would the member require the Travancorean who brings the profit he derives outside Travancore from paddy lands in British India

LIBRARY ARCHIVES Kerala Legislative Assembly

to be assessed, in spite of the fact that he pays tax to the British Government?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): The Travancore Government has not to consider whether that man pays anything to the British Government or not. So long as a Travancorean brings in anything from outside, out of a concern of his own, whether agricultural or not, he may be properly charged for that. But the Agricultural income that is derived from a freehold estate is entirely different from that. These lands originally belonged to the Travancore Government, but they have given up all the rights over them to the Chiefs on some consideration or other. I am not concerned with the history of this transaction nor do I think that it is relevant here.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I ask Mr. Joseph what he means by saying that Government have given up all rights over those lands?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I mean only the right of assessing. That is, these lands are not liable to any assessment by Government.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Does the member think that the State has a right to tax any export or import, that is to say, that the State has got the right of indirectly taxing Edavagai lands in the shape of export duty or import duty?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): It is quite another matter as regards export duty. We are concerned only with the agricultural income.

MR. A. K. PILLAI (*Karunagapalli*): May not the agricultural produce be taxed if it is exported?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): That refers to the produce of the other people as well. There the footing is entirely different. If you travel into all the remote connections of these things, there will be no end to it. We are concerned only with the immediate and direct effects. The question is whether only the mere earth or soil is not liable to assessment and whether anything that is grown on that plot of ground can be assessed. That is the only question. Therefore I submit to the consideration of the House that, in the very nature of the Edavagai lands, the agricultural income from them ought *not* to be charged to any sort of Government tax, whether direct or indirect.

My second opposition is as regards the condition of the tenants who are living on these lands and cultivating them. These tenants are paying their proper assessment to the Chiefs of those Edavagais. We cannot view with any sort of partiality these tenants who are living in Edavagais from the tenants who are cultivating the *pandaravaka* lands.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Which is the authority that prescribes the rent?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): For what?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): For Edavaga lands.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Of course, whatever be that authority, I am concerned with the mere fact of it. The fact is that the tenants are paying a certain assessment to the Chiefs.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I wish to know from Mr. Joseph how we can say that it is a fair rate that they are paying.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I say that in some cases the rate may be a little less and in some other cases a little higher than the Government rate. In several cases I know that the tenants are giving at a rate much higher than the *pandarapattom* tenants are paying. Of course, there may be cases where the tenants give at a lower rate. But, in any case, it is a fact that they are giving some assessment to the Chiefs of these Edavagais. If we are going to ask these people also to contribute to the Government, I say it amounts to double taxation. The same people ought not to be taxed for the same thing twice, once asked to pay to the Chief and again to pay to the Government. That is a position which is quite inequitable. So I strongly oppose the principle of this Bill.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ടെനൻറ്സ് എന്നു പറഞ്ഞതു നെല്ല, തെങ്ങു, മുളകു മുതലായവ കൃഷി ചെയ്യുന്ന ആളുകളേയോ അതല്ല പത്തോന്തോ ആയിരമോ ഏക്കർ സ്ഥലങ്ങളിൽ കാപ്പി, റബ്ബർ, തേയില മുതലായവ കൃഷിചെയ്യുന്ന ആളുകളേയൊ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Of course, by tenants I mean those persons who hold lands from the Chiefs and actually cultivate the lands.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): എത്ര ഏക്കർ ഉണ്ടായിരിക്കണം?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): That is all I can say. It is not proper to make a difference in the case of a person who holds only one acre and that of a person who holds 1,000 acres. I do not think there is any principle in making such a differentiation. The Law Member, while explaining the position, was stating, I think, with a view to gain the sympathy of the members of this House, that the foreign planters are cultivating lands on a very large scale and are making a very large profit out of tea and other plants. I can also fully sympathise with the attitude of the Government or of the people when they say that, in the case of these foreign planters, some sort of income may be derived from them. But as regards Travancore subjects, I say there should not be any sort of partiality shown to the *pandarapattom* tenants as against the other tenants. I have not the least objection if any Bill is brought in this House with a view to get any sort of revenue from the foreign planters. I therefore submit to the consideration of this House that the members ought not to be brought to this view. Of course, I am also aware that the foreign planters are making much money.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*) : May I know from Mr. Joseph whether the objection of the member is limited to the Government collecting this income tax from *Edavagai* lands ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : Will the member please explain ?

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*) : If the right of collecting income tax is given to the *Edavagai* proprietor, will the member have any objection ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : I say that the Government have no right whatever to charge the agricultural income from the *Edavagai* tenants. I am not concerned with the collection of the revenue.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) : Am I to understand that the member will not object to getting income tax from foreigners who have cultivated rubber or tea in the *Edavagais* ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : I have not the least objection.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) ; But if an Indian cultivates 500 or 1,000 acres, what would be the attitude of the member ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : I have already told Mr. Kumara Pillai that I do not see any principle in making such a difference. But if, as a matter of expediency, any such Bill is introduced, I will have no objection to support it out of pure expediency. But I do not see any principle involved even in respect of it.

I do not see any reason to make any differentiation in this case. If the member will argue on general points whereby we have to make a difference, I can understand such a position.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*) ; May I know from the member what is the difference between a *Jenmi* under the Jenmi Kudiyan Regulation and an *Edavagai* Chief ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : I have not made a special study of it, and I am not therefore in a position to answer the question.

MR. K. K. THOMAS (*Kottayam*) : I have been listening to the discussion that has been going on both in the forenoon and afternoon with regard to this question. The main question involved here is the consideration of equity. I think it is the consideration of equity that urged the Government to impose income tax on lands within the *Edavagai* that are not assessed to land tax by Government. It is also the consideration of equity that makes the members on this side of the House to urge that, when once a land is taxed by the *Edavagai*, it will not be equitable to re-tax that land and to place it on any other footing, as distinguished from *pandarapattom* land which pays land tax directly to the Government. So, in the language of lawyers, he who seeks equity should do equity. Government stand on an equitable basis. They say

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. K. Thomas.]

"We regard all subjects alike. These people, that is, the holders of *Edavagai* lands are not liable to land-tax and so we levy income tax." That is the position taken by Government. They would say, "It is only fair and equitable to tax those who are not liable to land tax with income tax." I also appreciate the argument that the non-taxing of these lands will mean a loss of about one and a half lakhs of rupees a year. I am also told in the House that we stand to refund a lakh of rupees to the party. That is the point of view of the Government.

Now, from the point of view of the tenant, I would say something. The tenant is paying land tax to the Edavaga Chief, and as such, the understanding at the time of the creation of the freehold was that Travancore Government will not be in a position to tax these lands once again. The lands might have been made freehold either for services rendered or for generic purposes or for the rights that they were having in those principalities. I may draw the attention of the House to the analogy of British India. Travancore is on a par with Edavagai to British India. We are a small part of the big British Empire. Just as now the Travancore Government says, "We are giving all sorts of convenience to the Edavagais, we are giving you roads, we are giving you education, we are giving you peace and you must pay us for the cost of all that"; so also the British Government might say "We are protecting your coasts, etc." What will be our position if the British Government say, "you are not paying any tax to us."

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I do not know whether my friend is in order in giving that illustration which is a matter governed by treaties.

MR. K. K. THOMAS (*Kottayam*): I give it only as an illustration. I do not allude to anything else.

MR. A. K. PILLAI (*Karunagapalli*): Is the member aware that it is a very misleading analogy?

MR. K. K. THOMAS (*Kottayam*): I do not see. The British Government does not take any tax from Travancore besides the subsidy. Exactly on a similar condition it was that Travancore took up the sovereignity of these Edavagais and gave up the right to tax these Edavagai lands. The British Government might say, "We are guarding your coasts and protecting your lands from internecine warfare and you are not paying us anything." So there is an exact parallel on which the Edavagai stands to Travancore as Travancore stands to British India.

Then, with regard to some sort of exception tried to be created, certain lands contemplated to be exempted under the Regulation, certain classes of income, seeing that the Government would be standing to lose a lot of money if we give up this attempt entirely, I would suggest for the consideration of the House, whether it will not be equitable and to the best interests of the country itself if we leave the income

LIBRARY ARCHIVES Kerala Legislative Assembly

from the food products cultivated within these Edavagais out of consideration. As I said, a man who seeks equity must do equity; so I would suggest to the House to have a *via media*. You may tax the lands but not tax the food products like paddy, cocoanut, tea, etc.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : May I know whether tea is a food product ?

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : Is tea food ?

MR. K. K. THOMAS (*Kottayam*) : I do not know it. It may be excepted. What concerns the country is its paddy or cocoanut. If you are able to exempt the tenants of these lands from payment of income tax on paddy, cocoanut, and pepper, I think there will not be much opposition to this provision.

Then it was said that it is only the large capitalist that is affected by the income tax. It is not the large capitalist alone that is affected. So far as I am aware, there are not very many large capitalists here. A margin of Rs. 2,000 out of the income derived from agriculture will not be considered as capital because there will not be any margin of profit for the cultivators. I have also some doubts as to how we are going to assess the income of the agriculturists—ordinary tenants. So, in the interest of the ordinary cultivating class living in these Edavagais, I would suggest, if we are particular to have these people assessed to income tax also, an exemption might be made in the case of paddy cocoanut, pepper, etc.

MR. N. V. JOSEPH (*Parur*) : Sir, that the subject is to contribute some share to the Government for the support of the Government is a reasonable proposition. In realising that share, Government have adopted several methods. One is land tax and another is the tax on income. Now after taxing the land—

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I am afraid the member is speaking a second time.

MR. N. V. JOSEPH (*Parur*): That is only a fear. (*Laughter*).

So, the Government tax income. The basic principle of income tax is taxation on capital. Because, in a man's income, labour, capital and land contribute. The capital is taxed for income tax and land is taxed under the land revenue system. So far as the tenants living outside Edavagai are concerned, this is his position. For the income he derives from lands, he need not pay anything to the Government because the land is taxed. For the income he derives from any other source, he will have to pay income tax on income above Rs. 2,000 or so. Now take the case of the tenants of the Edavagai lands. He is also working on the lands and gets his income, and for the income he derives from the land he pays something to the Chief, a portion equal to the portion he pays to the Government. Thus he pays land revenue. After that, can we go and ask him again to contribute something more to the exchequer from the income he derives from the land ? That is the situation. That position has been made clear by my friend

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. N. V. Joseph.]

Mr. Matthew. When you pay tax once to the Chief and when you grant the benefit to the Chief, there is absolutely no objection for the Government to turn round and get what is due from the Chief. Only the tenants should not be taxed again. Now there is another position and I will give an illustration. A man holds 10 acres of land and he cultivates pepper and under the present value we may expect him to get nearly Rs. 3,000. For getting this income of Rs. 3,000 out of pepper cultivation, he will have also to pay income tax to the Government according to the Amending Bill. Then he will have to pay land tax to the Chief. So he will have to pay double tax. The income tax will come to a big amount and he will have to pay double tax. If, on the other hand, the tenant cultivates 10 acres of *pandarapattam* land outside the Edavagai, he need pay only land tax and he need not pay any income tax; so that there is a a distinction made between a subject and a subject. Moreover, there is another disadvantageous position here. That means it is discouraging extensive cultivation; if a man acquires more land and has extensive cultivation so that he may get an income of more than Rs. 2,000 at once, the Government come in and tax him. So that, it is an inducement for him not to have extensive cultivation, so that it is a tax on profession and not an income tax. If it is an income tax, why is the proprietor of *pandaraputtom* land exempted from the Income Tax Regulation? Because he already contributes his share in the shape of land tax; but in the case of Edavagai tenants he also contributes. But the Government does not recognise the contribution; that is all. When an agricultural income is taxed again, it is a tax on profession and not on income.

There is another position. Suppose you tax such tenants, let us see how it comes. In practice, these tenants have small holdings and they may not have an income more than an income of Rs. 2,000 a year. But that is not the question. What I submit is a question of principle. The other is a question of expediency. But that also is a matter which the Government and the House should contemplate, because many of the tenants of the Edavagais will not keep more lands and will not have extensive cultivation so that their income may not go above Rs. 2,000.

Another argument is that we are only taxing the capitalists; but we are not really taxing the capitalists. If it is taxation on capital, why should we exempt from tax the capitalists outside Edavagai? There are rubber cultivation, tea cultivation, coffee cultivation on an extensive scale outside the Edavagais and we exempt them. Why? On another principle. So even on the principle of taxing capitalists, this does not serve the purpose. Why should we confine ourselves to the Edavagai alone? If Government want to tax capitalists, either directly or indirectly, let us have wholesale taxation. Then so far as the practice is concerned, of course all taxation is a coercive measure. This House has got full right to tax and make a differentiation even in

LIBRARY ARCHIVES Kerala Legislative Assembly

taxation. Seeing that it is a source of income, in certain cases the end may justify the means. All right, let us have it. But in that case, we should not tax because a foreigner comes with foreign capital and works on our land and gets an income. That is not a just view. Let us have a distinction as regards paddy, pepper, ginger, cocoanut, etc., which are the products which ordinarily our people cultivate. Let us exempt them in that form. Then the common people will be satisfied.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): What is the sort of distinction between foreign capital and the capital of the subjects of the State?

MR. N. V. JOSEPH (*Parur*): There is already the distinction.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): What is the distinction in this particular case? May I draw his attention to the words he used? The principle he said was that the foreigner should be taxed and the subjects of the State should not be taxed. Then he makes the suggestion that the products such as ginger, etc., cultivated by the subjects of this country need not be taxed and that things which are produced by foreigners may be taxed, thereby evidently showing that he makes a nice distinction between a foreigner and a subject of this country.

MR. N. V. JOSEPH (*Parur*): Let the foreigner come and try to cultivate cocoanut, ginger, etc. Then I would not make any distinction. I do not want them to cultivate rubber and tea. Then where is the distinction? I leave it to their discretion. That is the reason why I advocated the exemption of paddy, pepper, ginger and cocoanut, etc.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know on what principle this distinction is to be based?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): May I know what all products may be taxed?

MR. N. V. JOSEPH (*Parur*): How many questions? (*Laughter*). Everybody understands this and so I think I need not explain.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know the principle on which these things may be exempted and other things not exempted?

MR. N. V. JOSEPH (*Parur*): Because with reference to the incidence of taxation, it is better to save people of low income and to tax people of higher income. Ordinarily, it is only capitalists that will go in for the cultivation of tea and rubber. The ordinary people of Travancore are those who plant some fifty cocoanuts and a few pepper vines. These are the ordinary people who live from hand to mouth.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Is he aware there are several people who plant large areas with cocoanut and pepper?

MR. N. V. JOSEPH (*Parur*): So far as I can understand, there are only very few, and we can count them on our fingers' ends. If there had been a large number of them, I do not think foreign capital would have been brought in and invested.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. A. K. PILLAI (*Karunagapalli*): May I know whether he has in mind small cultivators? Does he not realise that people getting an income of less than Rs. 2,000 are exempt.

MR. N. V. JOSEPH (*Parur*): Yes, I understand it. But even there it will be a check on our industry. Why should we confine ourselves to people earning only Rs. 2,000. Let him earn more.

Sir, another proposition also I have to bring forward. Many of these Edavagai lands, so far as the cultivation of other crops than paddy and pepper is concerned, are in the hands of the people of the State. In certain portions of these lands, foreign capital may come and work on an extensive scale and cultivate rubber and tea. So if we exempt rubber and tea, we must also exempt those whom we want to exempt.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : Sir, it appears to me that the principle of the Bill that has been introduced by Mr. Kayyalam Paramesvaran Pillai should be affirmed by this House. It is quite a wholesome principle. It has been observed by Mr. Robinson that about one-third of the country is reserved forest, one-third Edavagai property and lands not assessable to land-tax, and one-third other lands which are assessable and which have been assessed by Government.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Does Mr. G. Paramesvaran Pillai vouch for the truth of the statement that one-third is composed of Edavagais?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : I just said that Mr. Robinson made that observation and of course it was only a rough figure and I have reason to give some weight to that statement as it proceeded from the Land Revenue Commissioner of the State.

Now, Sir, in regard to the principle itself, the question is a very simple one. The side issues need not have been considered at all. The only question before us is whether, in respect of agricultural income derived from lands which are not already assessed to land tax, such income should be treated as agricultural income so that it may be exempted from the provisions of the Income Tax Regulation. That is the only question. If lands have been assessed to Government tax, agricultural income derived from such lands is already exempted from income tax. It is a confusion of ideas even to suggest that, in respect of agricultural income derived from lands other than Edavagais, they are exempt from any tax at all. For the lands out of which such income is derived are already assessed to Government tax, and they contribute to the State Exchequer. The only question is that Government want such of the lands as are not already assessed to tax being also made available for taxation so that the holders of such lands may also contribute their fair share towards the State Exchequer for all the benefits derived from the State in common with owners of other lands.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know why these lands are not assessed to land tax itself?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : They are not assessed to Government tax and there may be historical reasons for that. I am competent to go into that question and if at this distance of

LIBRARY ARCHIVES Kerala Legislative Assembly

time, we are enabled by some stroke of fortune to reopen that question, things would be entirely different. But we have to take facts as they are and then proceed. These lands might have been exempted for certain historical reasons. So far as the particular side of the land revenue is concerned, the lands belonging to Edavagais are exempted from tax. But I think that by that concession Government are not estopped from imposing other burdens upon the lands.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : Does not the member think that by taxing the agricultural income from these Edavagai lands they are only indirectly taxing these lands ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : If it is so, I would welcome it. I should have been very glad to directly tax the lands. If even indirectly we are able to get some revenue, I should think that it is very necessary that we avail ourselves of the opportunity and make them also contribute towards the cost of administration.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : Why cannot the Member introduce another Bill whereby Government will be able to raise land revenue from these lands ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : Here we are concerned only with income tax and not land revenue. So far as income tax is concerned, I do not know wherein the objection lies. The tenants pay tax to their chiefs.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*) : May I know whether it is tax or rent ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : I mean, it is rent pure and simple.

MR. N. V. JOSEPH (*Parur*) : Will it not be better if all lands are made free of land tax ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : It is one of the very best propositions for us to abolish land tax as it is to-day. And that is what I have been advocating. I should be very glad indeed if we can abolish all land revenue and then begin taxing agricultural income. But that is a different question altogether and that involves a larger issue with which we are not concerned at present.

For one thing, the contractual relationship between the lessor and lessee has been mixed up as meaning that the tenants are giving rent to the Chief in lieu of land tax to Government. It is not that the Edavagai people are under the Chiefs and that they are contributing anything to the Government towards the cost of administration. It is some rent that is paid to the lessor, the Chief, by way of contractual relationship. That cannot in any way prevent the Government from imposing tax upon the people to meet the requirements of administration. In fact I wonder whether the tenants who now want exemption would consent to the withdrawal of the Government from the governmental activities within the Edavagai area in so far as the progressive needs of modern administration are concerned. The Edavagai tenant, on the other hand would claim larger and larger allotments of money under the P. W. I

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. G. Paramesvaran Pillai.]

in order that means of communication may be fully developed within Edavagai areas. Is it the one-third of the population which is non-Edavagai which should contribute towards the upkeep and maintenance of the Edavagai areas? It cannot be justifiable for the tenants in Edavagais to ask for exemption from taxation because they pay some rent to the Chiefs. It has been said that they pay rent to the Chiefs just as others pay land revenue to the Government at the same rates of assessment. I have just mentioned—I am open to correction—that the Edavagais have been asked to fix the rate of assessment upon these tenants not exceeding what the Government would otherwise have taken from them, with a view to protect the tenants from oppression by the Chief. It is in the interests of the tenants that the Government intervene and tell the Chief that, "You shall not tax them unreasonably", when they intervene on their behalf if at all. A private contractual relationship between the tenant and the lessor should not stand in the way of the Government imposing their fair share of taxation on the holders of Edavagai lands. The very ground upon which my friends who have been opposing the principle of this Bill is unsustainable.

MR. N. V. JOSEPH (*Parur*): The tenant is the lessee and the Chief is the lessor. May I know who is to be taxed?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Both are liable to be taxed. It is with respect to the individuals that taxation is imposed. It has nothing to do with the relationship of lessor and lessee at all. It is not because they are lessors or lessees that tax is imposed.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Does Mr. G. Paramesvaran Pillai know that Edavagais form part of Travancore?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): They do.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Were Government entitled to collect land tax from those portions?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): They must have given it up by way of concession.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): To whom?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): To somebody.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): To the tenants?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): It may be to the tenants or to the Chief, perhaps.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): For what consideration?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I do not know; I must look up the history of the Edavagais. Each Edavagai has its own history.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Does the member suggest that the Government must revoke that concession?

LIBRARY ARCHIVES Kerala Legislative Assembly

PRESIDENT: Mr. Matthew, Mr. G. Paramesvaran Pillai is not in the witness box at present.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): If, for the information of my friend, he will request me to go into the history of particular Edavagais, I would certainly do so and inform him.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): May I know whether the Government gave up their rights on their own accord or as a concession to the tenants?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I do not know, again. I must look up the history of each Edavagai before I can answer that question. There has been considerable controversy between the Edavagai tenants and their Chiefs and the Government on this matter. I have myself come across several cases of that nature in which Government did not concede the rights which the Edavagai Chiefs claimed.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Has the Government any right now to assess the lands to land tax?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): We are not concerned with that. We are at the question of income tax. Whether the Government have a right to impose income tax or not is the only question. The Government have given them a concession to collect rents from tenants. But it does not deprive Government of their rights to impose any other tax provided it is done with the approval of this Council. This Council and the Government have absolute rights of imposing any taxes.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): What I wish to know is whether Government have of their own accord made the grant in favour of the Chiefs.

PRESIDENT: I think you can direct that question to the Government bench when it speaks.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I would bring it to the notice of the President that the Government Bench failed to give me any answer this morning.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I would just put one question to my friends who hold the opposite view. Suppose the Chief himself owns large estates and he cultivates them on a large scale and gets a very large income out of it. What will be his position? Should the Chief as an actual cultivator be exempt from taxation? The man escapes altogether. The Government do not get anything at all, neither land revenue nor income tax.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Does the member say that only the wild regions should be exempt from land revenue?

MR. G. PARAMESVARAN PILLA (*Neyyattinkara*): I confess I do not understand him.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I shall explain my position. If, under the Chief, 10 acres are lying wild, the Chief need not pay anything; but if the 10 acres are cultivated, then only he need pay revenue.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): You only tax the income.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): So long as the lands are lying waste, the Chief gets no income and when the Chief cultivates the lands and gets an income then he has to pay tax.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): If he allows the land to lie waste, he will not be taxed. If he gets any income, he will be taxed. It is very reasonable that the actual cultivators of the soil who make an income of less than Rs. 2,000 should not be taxed.

As for the analogy of Mr. Thomas between the British Government and the Travancore Government and the Travancore Government and Edavagais, I think the analogy is obviously mistaken. So far as the exemption of the food products is concerned, it is a matter of detail. If, for any particular reason, people are put to any hardship, on account of the taxing of any food produce, that is a matter which may well be considered at further stages of the Bill when it is taken to the Select Committee. At present, we need not take into consideration these things at all. I should certainly approve of the principle of taxing income derived from these lands. No ground has at all been made out by the other side why the said income should not be taxed at all.

MR. K. K. THOMAS (*Kottayam*): A word of personal explanation.

MR. A. K. PILLAI (*Karunagapalli*): Sir,—

MR. K. K. THOMAS (*Kottayam*): Sir, I have a word to say.

MR. A. K. PILLAI (*Karunagapalli*): Sir, who is in possession of the House?

PRESIDENT: Mr. Thomas has a word of personal explanation. He may have his say now.

MR. K. K. THOMAS (*Kottayam*): I have a right to explain my position. I gave the analogy of the British Government and the Travancore Government simply to show that it would be unfair for the British Government to tax any portion of the lands of the Travancore Government. It is only on that analogy I gave my arguments. I appealed to your equity when I brought in that analogy.

MR. A. K. PILLAI (*Karunagapalli*): Sir, I have very great pleasure in supporting the motion before the House for the legitimate enhancement of the revenue of the State. I shall be happier to have supported this measure if it came from a non-official. We will then be in a position to answer the charge of Mr. George, the Financial Secretary, who said that we have not brought forward any constructive work for the enhancement of the revenue of the State. I think we have got to consider certain outstanding issues, more outstanding than we have discussed here. The issues have been confounded by introducing certain arguments based on the relationship between proprietor and tenant, lessee

LIBRARY ARCHIVES Kerala Legislative Assembly

and lessor. I think they are irrelevant. When my friend said that the State has got a proprietary right over *pandarapattom* lands and that it has no proprietary right over Edavagai lands, he was making his stand on an exploded theory that the State is after all a proprietor. The State, according to my opinion, and according to enlightened opinion, is only an organised society for the protection of the people. If the State under takes upon itself the duty of protecting the life and property of the people within itself, it is as much the duty of the people to pay to the resources of the State and nobody can suggest that the people residing in Edavagais are not enjoying the privileges afforded by the State.

The fact is this. People who are in Edavagais are not contributing anything at all to the State, while people outside are contributing their mite. It has been suggested that equity requires that one people should be taxed and the other not taxed. All people should be subjected to the same rules of taxation. My humble opinion is that it is the duty of the people to see that people are taxed to the same extent. It is only essential that people should pay tax to the Government because the State is there to protect them. It is their duty to pay to the resources of the State for their protection and also for the conveniences such as roads. Now roads and other conveniences require money and the people cannot merely enjoy the privileges. It is on this principle that we should all pay the tax to Government. It may be quite all right to say that the other people should be taxed a little more but that is a mere contention.

MR. N. V. JOSEPH (*Parur*): May I know whether the tenants in the Edavagai are contributing money by way of any other kind of tax to the State exchequer except land revenue ?

MR. A. K. PILLAI (*Karunagapalli*): They are not.

MR. N. V. JOSEPH (*Parur*): They are. They are paying income tax, excise duties etc. They do not pay land revenue alone.

MR. A. K. PILLAI (*Karunagapalli*): The chief difference between these is that—

MR. M. SIVATANU PILLAI (*Tovala*): May I know whether the tenants are paying tolls ?

MR. A. K. PILLAI (*Karunagapalli*): That is a different thing. But the tolls alone do not make up the funds for constructing roads. It is only quite proper that these people, who have been going scot-free till now, must be taxed now. It is a different proposition to say that other people are paying only land tax and are saving a good deal for themselves. It requires a wide stretch of imagination to include the cultivation of tobacco, pepper and poppy in agriculture proper. For, by agriculture, we come to mean only the cultivation of food-stuffs. To say that the cultivation of rubber and opium and poppy is agriculture proper is really going too far. When we exempt people who are agriculturists, we are only exempting people who till the soil for contributing to the necessary food-stuffs and the resources of the State and they are actually exempted under this provision.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. A. K. Pillai.]

Mr. Matthew endeavoured to make a strong case that is alleged to have been made by the Law Member in the last Council. But, whatever may have been stated and whatever may have been the merits of that statement, this House is not anxious to claim any inheritance of that blunder. It is left to us to discuss the question on its own merits, whatever may have been the statements made previously in this Council. So I support this motion with the greatest pleasure.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, when Mr. Robinson and the Law Member mentioned that, by passing this measure, we might be getting something like a lakh or two of rupees, it was undoubtedly a very attractive proposition. We who are taxpayers will feel considerably relieved if the burden of taxation could be lightened in any way. Besides, so many of us are in no way connected with the Edavagais and are therefore not able to speak about it as our experienced friend, Mr. Matthew, has been able to do. It is all the more reason why we should view the question from the point of view of justice, equity and good conscience, as the people directly affected are not able to make themselves heard in this House.

The reason for proposing that the income tax should be levied upon the Edavagai lands is that they are not paying any land tax. It has been pointed out that these Edavagai landholders are not paying any land tax to Government not because the landholders are unwilling to do that. It must be due to some arrangements which the Government made with Edavagai Chiefs independently of the tenants. The inhabitants of the Edavagai are admittedly the subjects of His Highness the Maha Raja and are entitled to the protection that the people in other parts of the country are enjoying. Therefore, without any connivance or consent on the part of the ryots or tenants, if the Government have made any arrangement by which the tenants are not to pay any land tax at all to Government, I should not think it justifiable that they should be penalised on that account. I think there is a special arrangement by which the owners of the Kannan Devan Hills Produce Company are paying only a very small portion of the land tax which they would have been paying had the tax been assessed under normal conditions. Other parts are paying Rs. 2 per acre of rubber and Re. 1 for every acre of tea. On that hypothesis, if the Government imposed the ordinary land tax upon the owners of the Kannan Devan Hills Produce Company, I think that would be very much greater than what they are now paying. I wonder whether the principle that is now made applicable to Edavagais will be extended to the Kannan Devan Hills Produce Company and income tax levied from them as under normal conditions. This could not be realised because of some arrangements made years ago between the Kannan Devan Hills Produce Company and the Government. Similarly, the Edavagais are exempted from paying land tax owing to some arrangements made between the Chiefs and the Government. That was a point which was raised by Mr. Matthew for which I do not think any satisfactory answer has been

LIBRARY ARCHIVES Kerala Legislative Assembly

given. The tenants in the Edavagai lands do not at all desire that they should be exempted from land tax. They are admittedly the subjects of His Highness the Maha Raja and they would be very glad if, by some arrangement, it was made that the land tax may be paid to Government.

MR. C. P. THOMAS (*Nominated*): What was the arrangement when the Edavagai landholders were not the subjects of His Highness the Maha Raja of Travancore?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): They have always been, as far as I know, subjects of His Highness the Maha Raja of Travancore. As to the time when they became the subjects of Travancore is now a matter of history into which I do not feel competent to enter.

I came here with an open mind. When I heard that we were likely to get a lakh of rupees I was compelled to support the proposition. But I found no convincing replies to the objections raised I understand the people in the Edavagai lands are really paying tax. Some difference was made by Mr. G. Paramesvaran Pillai between tax and rent. I did not understand the difference between the two. I know that people who are holding lands in the Edavagais are paying one or two rupees per acre to the Chiefs. The tax may be lower, if the tenant holds lands under certain favoured tenures such as *Thirumilam*. They are certain people who offer their services to the Chief and who are therefore exempted from the full payment of the taxes which they would otherwise have had to pay under normal conditions. In most cases, the tax assessed by the Government is almost identical with that assessed by the Chiefs.

Another point that I wish to mention is that, at the present time, rubber industry is a profitable concern but there may be a time when it may become a losing concern. At the present moment, the profit per acre may be Rs. 200. Under these conditions, if the rubber planters are made to pay an income tax, it may come to something like Rs. 20 per acre. It would be an iniquitous state of affairs if the people were made to pay the same amount of income tax when the industry is a losing concern and when it is thriving well. Moreover we should not ill-treat the planters who are foreigners. The fact that they are foreigners is no reason why we should treat them with injustice. There must be reason and justice for our actions. For several years the rubber planters were finding it difficult to make both ends meet. They were actually paying something from their own pockets. It is a highly speculative business. If there is a prospect of prosperity, there will be also the prospect of adversity. So, that ought not to blind us to the actual state of affairs. We should not think that, because rubber industry is mainly in the hands of foreigners, we should treat them with injustice. I can understand the position that land should be reserved to Travancoreans and should not be given to foreigners; it has been suggested that while foreigners are taxed Travancoreans should be exempted. I do not desire that any such distinction should be made. The planters, who are here,

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. C. Mammen Mappillai.]

are here because they are sure that they will get justice from our Government; and so there ought not to be any discrimination made between Travancoreans and outsiders.

Under these circumstances, I oppose the motion.

MR. G. RAMAN MENON (*Mavelikara cum Kartikapalli*): Sir, I feel considerable sympathy with the object of Government as enunciated by Mr. Kayyalam Paramesvaran Pillai, namely, to get some money from some rich capitalists in the shape of income tax. But that object, it seems to me, should be canvassed in a juster and fairer manner than the one now proposed. The Government can levy something like a capital tax or super-tax. Mr. Matthew and Mr. Mammen Mappillai have made it clear that there would be a clear case of injustice in treating the tenants, whether they happen to be companies or private gentlemen, on a different footing from tenants or companies cultivating lands outside Edavagais. It seems to me that there should be absolutely no difference in such cases. Government ought to be just in all such cases. If the Government feel that more money is required and they feel that the capitalists can afford to pay, then they can levy taxes. But they should not exempt some persons and levy taxes on others. They should mete out the same measure of justice to all persons alike, whether they happen to be subjects of His Highness the Maha Raja or not. They ought to be treated alike with the same degree of justice. Many of our friends are sojourning in other lands and we do not like the Governments there to deal with them as we now propose to treat the sojourners that are in our country.

MR. C. P. THOMAS (*Nominated*): I wish to refer to a point in this connection. The discussion turns upon the proposition that Government are not getting land tax from the Edavagai landowners. The question to be decided is whether the tenants are responsible for the circumstances in which they are placed. If it cannot be proved that these tenants or their forefathers are not responsible for the fact that they are not paying tax, I do not see any justification why they should be penalised for the circumstances for which they are not responsible.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Sir, my name has been dragged in by one or two members to support their arguments. I am, therefore, forced to say a few words. It will be conceded that every subject of the State ought to pay for the administration, for the amenities and privileges that he enjoys under the Government. If that is conceded, then there will be no difficulty whatsoever in supporting the principle of the Bill. What everybody is asked to support is the principle that every one should contribute, for the cost of the administration, by various forms of taxes, such as land tax, income tax and other forms of taxes. In order that a person may not be liable to pay two taxes at the same time, the Income Tax Regulation, which was recently passed, said that agricultural income from lands liable to land revenue should be exempted from assessment to income tax. What my friends Mr. Matthew and others say is that it is not their fault if the

LIBRARY ARCHIVES Kerala Legislative Assembly

Edavagai lands have not been taxed, and that, therefore, they should not be assessed to income tax. I do not think we are bound to consider the circumstances under which a particular person began to occupy a particular part of Travancore. This is ancient history probably, and we are not concerned with that. What my friends. who opposed the Bill, said was that the Edavagais were given as freeholds for various reasons and that, therefore, they should not be taxed. If that were so, the Edavagai proprietors are the proper persons to assert their rights, for exemption from payment of income tax. If they had any grievance, they would have got the remedy very easily. From the moment the Income Tax Regulation was passed, the Edavagai proprietors were being assessed to income tax and they have been subjecting to it. If the terms of the agreements between them and the Government had been that they should not, under any circumstances, be taxed to income tax on the income derived from their lands, there were the courts of justice to mete out justice to them. The Singampetti Zemindar, I believe, proceeded against the Madras Government saying that he was not liable to pay income tax, since, under the terms of the 'Sanad' granted by the British Government, he was not bound to pay any tax under any circumstances whatsoever. The Courts, in construing the 'Sanad' held that he was not liable to pay income tax for the income that he derived from the forests of the 'Zemindari'. In the same manner, if any Edavagai proprietor had any grievance, and if he was not liable, under the terms of his agreement with the Government, to pay any tax, it was open to him to fight out his right in a court of law. Now, we have seen that they have been submitting to the assessment made under the present Regulation. I believe the Amending Regulation emphasises that position and we have not had any opposition from them. Therefore, there is no use in pleading from ancient history that these Edavagais have been exempted from all manner of taxation. What I therefore submit is that that question is foreign to the issue before us. It was also stated that the tenants should not be penalised simply because they cultivate lands within the Edavagais. We have to take things as they are. It is not my fault or anybody's fault that some lands belonging to the Travancore territory were exchanged with the British Indian Government for certain others. Travancoreans who bring their own paddy within Travancore are required to pay income tax for their agricultural income simply because the Travancore Government does not get anything from the lands which those people have cultivated. It is not their fault if such property has been given to the British Government in exchange for some other property. Therefore, the only question now is whether the Travancore Government gets anything from the lands the income from which is sought to be assessed.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): May I know from the Deputy President whether the portions exchanged now form part of Travancore?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): So that, my point is that it is not possible for us to tax lands within the

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

Edavagais in any other manner. The people who are holding 'Pandarapattom' property have been paying taxes to Government for centuries while the persons within the Edavagais have not been paying anything to Government for the amenities that they enjoy under a good Government. I ask where is the analogy between the two?

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): The Edavagai tenants pay tax to the Edavagai proprietors.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): They may pay to the preprietors. We are not concerned with that. Are they paying anything to Government? That is the point in issue.

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencotta*): May I know whether there is any difference between the tenant in a *Zemindari* or *Mitta* in British India and the tenant in the Edavagais?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): It is a hypothetical case and I have nothing to do with it.

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencotta*): I want to know the difference between the status of the Edavagai tenants and the Zemindari tenants in British India. I do not see how it is a hypothetical question.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): The question does not arise here. I know, as a matter of fact, that the Zemindar has to pay a consolidated tax to Government. The question then arises whether he is not paying something to Government. It is a case of permanent settlement with the Zemindars. That is why I say that the question does not arise.

What I say is that there was no point in saying that there is no difference between *Pandarapattom* landholders and Edavagai tenants. If we are to go by analogy, I say, there should not be the slightest difference whatsoever between the paddy imported into Travancore by Travancore subjects and the paddy grown in the Edavagais. In both cases the Travancore Government does not get anything from the land. Why should you make any distinction between the property in Travancore and the property in the neighbouring territory? In both cases, the income is from agriculture. In both cases the agriculturists are subjects of the Travancore Government. In both cases the Travancore Government is not getting anything from the lands. The cases are exactly similar. Therefore, if the paddy imported to Travancore by a Travancore subject should be assessed to income tax simply because the Travancore Government does not get anything from the land, I do not see any reason why the Edavagai tenant should not be assessed to income tax on his agricultural income from lands from which also the Travancore Government do not get anything. If you go by analogy, the comparison must be exact in all matters.

Then, I do not think Mr. Karayalar need be under any anxiety regarding the proposed amendment. The learned Law Member has

LIBRARY ARCHIVES Kerala Legislative Assembly

only adopted the phraseology of the British Indian Act. Even there the income, from land from which the Government do not get anything, will be liable to assessment for income tax. I daresay my lawyer friends, who opposed the motion, do know that law is not always logical. I do not say this of my own accord. I think it was Lord Chancellor Halsbury who stated this in one of the decided cases, and this has been reiterated by Chief Justice Sadasiva Aiyar in 23 T. L. R. or somewhere there. He presumes that law is not always logical.

MR. G. RAMAN MENON (*Mavelikara cum Kartikapalli*): Our object is to make it logical as far as possible.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Even in that case, we have to put the qualifying expression 'as far as possible'.

MR. C. P. THOMAS (*Nominated*): Whether it is logical or not, should it not be consistent with principles of justice?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): If you go by justice, I believe, the principle, enunciated by the Bill is very just. How is the Government to make up for the deficit? Is it by taxing persons who are already paying tax to Government? As Mr. G. Paramesvaran Pillai pointed out, is it just to ask the people, living in the remaining one-third of the country and already subjected to all manner of taxes, to pay again to make up for the deficit? Is it not justice to say that people, who do not actually pay anything to Government, should pay something in the shape of income tax for the income which they derive from land from which the Government do not get anything? After all, where is the question of justice in income tax? Income tax is not imposed on all persons alike. It is imposed on the rich who get income beyond a certain limit. It is imposed on those who can afford to contribute towards the Government exchequer. I do not think there will be many among the Edavagai tenants who get such large incomes. I believe my friend Mr. Joseph and others admitted that there would not be very many persons within the Edavagais, who get more than Rs. 2,000 per annum. Some of my friends suggested that we should not tax Indians and that we should tax only Europeans and other foreigners. I think we ought to fight for a principle. Whether a particular estate is owned by an Indian or a European, it does not matter for Government. Government impose a tax on the income of a particular individual, be he an Indian or a European or any other foreigner. That being the case, I do not think we should be guided by those considerations. If there is any injustice in particular cases and if it is found that it is absolutely necessary, on account of economic conditions in Travancore, to exempt particular crops from assessment to income tax, by all means move the Government under the exemption Section cited by the learned Law Member. Instead of doing that, if it is stated that an Indian should be exempted and that the European should be taxed, I think there is no principle in such an argument. Those are communal distinctions which should be avoided as far as possible, except, perhaps, in Government service. (*Laughter.*)

It was stated by my friend Mr. Mammen Mappillai that rubber is not always paying and that sometimes the estate owners have to work

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

at a loss. I think the question for the purpose of the Income Tax Regulation is whether they get any income besides the expenses. It is not gross income that Mr. Robinson takes into consideration. It is only the income that they get after meeting all their expenses for raising the crops. If it is found that they do not get any income, certainly, they will not be liable to any tax at all. Therefore, when the price of rubber goes down, the estate owners may not be liable to pay income tax at all. I do not think, therefore, there is any difficulty whatsoever in regard to that matter. For these reasons, I have great pleasure in supporting the principle of the Bill.

MR. G. RAMAN MENON (*Mavelikara cum Kartikapalli*): Is the member aware that the people in Edavagais are now paying taxes to Government such as excise taxes and so on?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): They pay those taxes just as any other man pays. Everybody pays those taxes, whether he is inside the Edavagais or outside. We are concerned here with the payment of income tax for agricultural income derived from lands from which the Government do not get any revenue.

MR. C. P. TARAKAN (*Kunnatnad*): സർ, ഇതുവരെ ഗവർണ്മെൻറിനു നികുതികൊടുക്കുന്ന ആളുകളേയും ഇടവകയ്ക്കു നികുതികൊടുക്കുന്ന ആളുകളേയും ഒരേരീതിയിലാണ് ഗവർണ്മെൻറു വിചാരിച്ചു പ്രവർത്തിച്ചുവന്നിട്ടുള്ളതെന്നുള്ളതിനു ഉദാഹരണമായി ഈ നിയമസഭയിലേക്കു അംഗങ്ങളെ തിരഞ്ഞെടുക്കുന്ന നിരതന്നെ ഗവർണ്മെൻറിലേക്കു അഞ്ചുരൂപാ കരം നീരുവയുള്ള ആളുകൾക്കും ഇടവകയ്ക്കു ഈ രൂപാ കരം കൊടുക്കുന്ന ആളുകൾക്കും ശരിയായ അവകാശങ്ങൾ ഗവർണ്മെൻറിൽ നിന്നും കൊടുത്തിട്ടുണ്ട് എന്നുള്ളതുതന്നെ ഒരു പ്രത്യക്ഷ ലക്ഷ്യമാണ്. അതിൽ നിന്നും ഈ രണ്ടുതരം നികുതി കൊടുക്കുന്നയാളുകളും ഒരേ രീതിയിൽ അവകാശം ഉള്ള ആളുകളാണെന്നു ഗവർണ്മെൻറു ഗണിച്ചുപ്രവർത്തിച്ചിട്ടുള്ളതായി മനസ്സിലാകുന്നു. എന്നാൽ ഈ തത്വത്തെ അവഗണിച്ചു ഇപ്പോൾ ഇടവകയ്ക്കു നികുതികൊടുക്കുന്ന ആളുകൾ ഒരു വശത്തിക്കാരും ഗവർണ്മെൻറിലേക്കു നികുതി കൊടുക്കുന്ന ആളുകൾ മറെറാരുവശത്തിക്കാരും ആണെന്നു തോന്നുന്നവിധത്തിൽ ഒരു നിയമം ഈ സഭയിൽനിന്നും പാസ്സാക്കുന്നതു ശരിയായിരിക്കയില്ല. ഇടവകയിലേക്കു കരംകൊടുക്കുന്ന കുടിയാന്മാർ തങ്ങൾക്കു ഗവർണ്മെൻറിൽനിന്നും ലഭിക്കുന്ന സുഖസൌകര്യങ്ങൾക്കു പ്രതിഫലമായി ഒന്നും കൊടുക്കുന്നില്ലെന്നു ചിലർ പറയുകയുണ്ടായി. അതു ശരിയായ അഭിപ്രായമാണെന്നു ഞാൻ വിചാരിക്കുന്നില്ല. ഭൂമിയിന്മേലുള്ള നികുതി ഒഴിച്ചു മറെറല്ലാവിധത്തിലും, ഗവർണ്മെൻറു ഭൂമി അനുഭവിക്കുന്ന ആളുകൾ കൊടുക്കുന്ന എല്ലാ

LIBRARY ARCHIVES Kerala Legislative Assembly

വിധത്തിലുള്ള നികുതിയും ഇടവക കുടിയാനവന്മാർ കൊടുക്കുന്നുണ്ട്. ഇവരും മഹാരാജാവു തിരുമനസ്സിലെ വിശ്വാസമുള്ള പ്രജകളാകുന്നു.

ഇങ്കംടാക്സ് റഗ്ലേഷൻ പാസ്സാക്കിയ അവസരത്തിൽ ഇടവകയിലെ പ്രൊപ്രൈറർ നികുതികൊടുത്താൽ മതിഎന്നും കുടിയാനവന്മാർ നികുതി കൊടുക്കേണ്ട എന്നും തീർച്ചപ്പെടുത്തിയതു് ഭൂമിയിൽ കൃഷി ചെയ്യുന്ന ആളുകൾക്കു കൃഷിചെയ്യുന്നതിനുള്ള ഉത്സാഹത്തെ കുറയ്ക്കുന്ന യാതൊരു കരവും ഏർപ്പെടുത്താൻ പാടില്ലെന്നുള്ള തത്വത്തെ ആദരിച്ചായിരിക്കണമെന്നു ഞാൻ വിചാരിക്കുന്നു. ഇപ്പോഴത്തെ നിയമപ്രകാരം ആ തത്വത്തിനു ലംഘനമാണ് വരുന്നതു. കുടിയാനവന്മാരെ ഭൂമി വെറുതെ ഇടാൻ ഉത്സാഹിപ്പിക്കുന്ന ഒരു നിയമമാണ് ഇതു്. അതിനാൽ ഇപ്രകാരമുള്ള ഒരു നിയമം പാസ്സാക്കുന്നതു ശരിയായിരിക്കയില്ലെന്നു ഞാൻ അഭിപ്രായപ്പെട്ടുകൊള്ളുന്നു

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Sir, I feel glad that, although there has been some opposition to the measure proposed to be enacted, my burden in replying to the opposition has been considerably lightened by the remarks that have fallen from the non-official side itself, especially from Mr. Subba Aiyar and Mr. G. Paramesvaran Pillai. Most of the criticisms have been replied and, if I take a few minutes, it is only to stress a few points.

One of the arguments advanced by the opposition is that the tenants in the Edavagais are paying something to the Chiefs, and that, therefore, it is not reasonable that they should be taxed further in the shape of income tax. One reply to that argument is that the Government do not get anything from those lands, and it is the Government that has to look after the administration of the State.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Does not the Government get from them revenue in the shape of excise revenue, court fees, and so on?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): That alone is not sufficient to meet the cost of administration.

MR. K. K. THOMAS (*Kottayam*): With regard to the *jenmom* lands, they are not all equally taxed. In certain lands there is full assessment, in others only one-eighth and in others only one-fourth. Does the member say that the balance of the agricultural income in such cases should be assessed to income tax?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): If a land is *entirely free* from land tax, it is liable to income tax. It is no doubt true that the Edavagai tenant pays something to the Chiefs. But he does not pay anything to the State for the good administration that it gives him. As Mr. Subba Aiyar suggested, we cannot help inequalities in life. My friend may have the good fortune to have a building just by the side of the public road, and that may fetch a good price for him. For no fault of mine, I may have a house furlongs away

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayyalam Paramesvaran Pillai.]

from the public road, and therefore it may not be worth much. We cannot help such inequalities in life. The amount that the tenant pays to the Chief should only be considered as so much additional investment necessary for the enjoyment and cultivation of the land.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : May I know whether the tenants in these Edavagais have permanent occupancy rights ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : In the *Poonjar* and *Vanjipuzha Edavagais*, they have no right of permanent occupancy.

As I have already submitted, the sum that the tenants may pay to the Chiefs should be considered as so much additional investment for the cultivation of the lands, and the Government do not get anything from such lands. Considering that fact, it is only equitable that such cultivators should be asked to pay income tax on the agricultural income derived from such lands. Of course, there is the question whether the ordinary peasant will be affected by this measure. As I have already explained to the House, these peasant-cultivators will not be affected by this measure ; because, as a rule, his income does not amount to Rs. 2,000 per annum. It is only the capitalist-cultivator that is affected by this provision. If we look at it on that broad principle there is no hardship.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*) : May I know whether the Edavagai Chief is not now in the position of the assignee of Government land revenue ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I am not prepared to concede any such position. Further, that point does not arise.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*) : Have not the Government alienated their rights ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : It does not arise at all. As matters stand to-day, the State is looking after the administration of these places and providing hospitals and roads and other things for the benefit of the people there.

MR. N. V. JOSEPH (*Parur*) : May I know from the Law Member if the tax paid by a tenant to the Chief is not taken as a substitute for the tax he pays to Government and why people who get less than two thousand rupees are exempted?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : The rent that is paid by the tenants to the Chief is not substitute for the tax paid to Government, because the Government does not get it.

As has been very often emphasised by the members on the other side of the House, we cannot go into all the historical events. We have to take things as they are to-day. As matters stand at present, the tenants of the Edavagai are not contributing anything to the State at all.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. N. KUMARAN (*Nominated*) Supposing the whole land within the Edavagai is in the possession of the Edavagai Chief and he alone cultivates the land and derives the whole income, does it make any difference in the payment of income tax to the Sirkar?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): No; it does not excepting that in that case there will be no *rent* on which to assess income tax.

MR. K. MADHAVAN PILLAI (*Trivandrum cum Neduvangad*): Has not the Government declared that the position of an Edavagai Chief is similar to that of a *Jenmi*, in the *Land Revenue Manual*?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): For our present purposes, he may be taken as but a big proprietor.

MR. C. N. TUPPAN NAMBUTIRI (*Jenmies*): ഇടവക വസ്തുക്കളോടു് ഏറ്റവും പരമ്പരയുള്ളതായ ജന്മവസ്തുക്കൾക്കുതന്നെ നികുതികൊടുക്കാത്തതായ വസ്തുക്കളിൽനിന്നും നികുതി ചുമത്തിവരുന്നുണ്ടു്. ആ വസ്തുവിൽതന്നെ ൨ ൦ ൦ ൦ രൂപായ്ക്കുമേൽ ആദായം കിട്ടുന്നതെങ്കും കരുമുളകും വച്ചു് ദോഹണ്ഡിച്ചിരുന്നാൽ ജന്മിക്കു കിട്ടുന്ന ആദായം ഒഴിച്ചു ബാക്കിക്കുടി ഇതിൽ ഉൾപ്പെടുന്നതാണോ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): ഈ വസ്തു സർക്കാരിലേയ്ക്കു കരംകൊടുക്കുന്നതല്ലെങ്കിൽ ഉൾപ്പെടുന്നതാണു്.

MR. K. I. JOSEPH (*Minachil cum Devicolam*): May I know from the Law Member whether in the case of *Jenmom Lands* Government make concessions as regards revenue in favour of the tenants of these *Jenmies*?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Some of the lands are taxed at low rates.

MR. K. I. JOSEPH (*Minachil cum Devicolam*): Is it not improper to give such concessions or exemptions in the case of the tenants of the Edavagais also?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): That question does not arise. There may be some differences in regard to all human matters. But the question is whether the State is getting any contribution. It should get some-thing towards the cost of administration of the country.

MR. K. I. JOSEPH (*Minachil cum Devicolam*): Is it not a fact that, in the case of *Jenmom* lands, the Government is getting only tax at a very small rate?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Yes.

MR. K. I. JOSEPH (*Minachil cum Devicolam*): In the case of the estates, they are getting at a higher rate. What is the justification for that?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): How higher rate? *Jenmom* lands are paying some thing to Government.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I point out to the member that these inequalities are based on certain well recognised principles.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Yes. The only practical question which now arises is whether the State is not entitled to get anything towards the cost of the administration from the people who are making large income by capitalised cultivation.

MR. C. P. THOMAS (*Nominated*): May I know from the member whether the income tax paid by these Chiefs does not practically compensate—

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): No, it does not. The income tax is payable by the chief only on his rent or revenue; so it would only be on a small portion of the income from the lands. It may be taken like this. The rent may be one-thirtieth of the income from the land and the income-tax on rent is charged on that one-thirtieth.

MR. C. P. THOMAS (*Nominated*): Why not make them responsible to pay all?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): They do not get all the income.

With these words, I move that the Bill be read in Council.

The motion was put to the vote and carried.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I demand a poll.

A poll was taken with the following result:

FOR—33.

1 Mr. I. C. Chacko.
2 ,, J. B. Cook.
3 ,, R. Dhanukoti Pillai.
4 ,, K. George.
5 ,, S. Gnana Joshua.
6 ,, C. P. Kochukunju Pillai.
7 ,, A. K. Pillai.
8 ,, N. Kumaran.
9 ,, T. Kumara Pillai.
19 Dr. N. Kunjan Pillai.
11 Mr. K. Madhavan Pillai.
12 ,, Kallur Narayana Pillai.
13 ,, K. Narayanan Pandalay.
14 ,, K. V. Natesa Aiyar.
15 ,, K. P. Nilakanta Pillai.
16 ,, N. Nilakanta Pillai.
17 ,, M. N. Pillai.
18 ,, R. Padmanabhan.
19 ,, G. Paramesvaran Pillai.
20 ,, Kayyalam Paramesvaran Pillai
21 ,, S. Piraviperumal Pillai.
22 ,, W. H. Pitt.
23 Mrs. M. Poonen Lukose.
44 Mr. T. P. Ramasubba Aiyar.
25 Rao Bahadur K. V. Rangaswami Aiyangar.
26 Mr. S. C. H. Robinson.
27 ,, K. Sivarama Panikkar.
28 ,, M. Sivatanu Pillai.
29 ,, J. Stephenson.
30 ,, V. Subba Aiyar.
31 ,, S. Subrahmanya Karayalar.
32 ,, C. N. Tuppan Nambutiri.
33 ,, A. J. Van Ross.

LIBRARY ARCHIVES Kerala Legislative Assembly

AGAINST—12.

1 Mr. K. I. Joseph.
2 „ N. V. Joseph.
3 „ C. Kerala Varma Koil Tampuran.
4 „ Tariatu Kunjitomman.
5 „ K. C. Mammen Mappillai.
6 „ T. J. Matthew.
7 Mr. G. Narayana Pillai.
8 „ A. J. John.
9 „ G. Raman Menon.
10 „ C. P. Tarakan.
11 „ C. P. Thomas.
12 „ K. K. Thomas.

NEUTRALS—2.

1. Mr. X. G. Lopez.
2. „ M. Subrahmanya Pillai.

The Secretary then read the title of the Bill.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) Sir, I beg to move that the Income Tax Regulation Amending Bill be referred to a Select Committee consisting of Messrs. (1) S. C. H. Robinson, (2) T. P Ramasubba Aiyar, (3) V. Subba Aiyar, (4) T. J. Matthew, (5) K. I. Joseph, (6) C. Kerala Varma Koil Tampuran (7) G. Paramesvaran Pillai, and myself to submit its Report within one month.

MR. N. NILAKANTA PILLAI (*Secretary to Government on other duty*): I second it.

The motion was carried.

PRESIDENT: I appoint Mr. V. Subba Aiyar as President of the Select Committee.

The Council adjourned at 5-10 P. M. to meet again at 11-30 A. M. the next day.

T. P. RAMASUBBA AIYAR,
Secretary to the Legislative Council.

LIBRARY ARCHIVES Kerala Legislative Assembly

SUPPLEMENT C.

THE FOLLOWING BILL TOGETHER WITH THE STATEMENT OF OBJECTS AND REASONS ACCOMPANYING IT, IS PUBLISHED FOR GENERAL INFORMATION, UNDER RULE 29 OF THE LEGISLATIVE COUNCIL RULES DATED THE 2ND OCTOBER 1921.

A REGULATION TO PROVIDE FOR THE REGULATION AND INSPECTION OF MINES AND FOR THE PROSPECTING FOR METALS AND MINERALS.

Whereas it is expedient to provide for the regulation and inspection of mines and for the prospecting for metals and minerals; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Regulation may be called "The Travancore Mines and Minerals Regulation."

(2) It extends to the whole of Travancore.

(3) It shall come into force at once.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context

(*a*) "agent", when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and, as such, superior to a manager under this Regulation;

(*b*) "child" means a person under the age of thirteen years;

(*c*) a person is said to be "employed" in a mine who works, under appointment by, or with the knowledge of, the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(*d*) "Gazette" means the Travancore Government Gazette;

(*e*) "inspector" means an inspector of mines appointed under this Regulation and includes a District Magistrate when exercising any power or performing any duty of an inspector which he is empowered by this Regulation to exercise or perform;

(*f*) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine;

Provided that it shall not include any part of such premises on which a manufacturing process is being carried on, unless such process is a process for coke-making or the dressing of minerals;

(*g*) "owner", when used in relation to a mine, means any person to whom a lease or license is given by the Government to work a mine or to prospect for metals or minerals and includes a contractor who may be engaged to do any work or part of it:

LIBRARY ARCHIVES Kerala Legislative Assembly

(*h*) "prescribed" means prescribed by rules made under this Regulation ;

(*i*) "qualified medical practitioner" means any person declared by the Government by notification in the Gazette to be a qualified medical practitioner for the purposes of this Regulation ;

(*j*) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing or the fracture of any limb, or the enforced absence of the injured person from work for a period, exceeding twenty days ;

(*k*) "week" means the period between midnight on Saturday night and midnight on succeeding Saturday night.

CHAPTER II.

PROSPECTION FOR METALS AND MINERALS.

Notice before prospecting land not belonging to Government.

3. (1) Whenever it appears to any officer of the Government appointed in this behalf that any metal or mineral may be found beneath the surface of any land, which is not land belonging to the Government, and that the examination of the sub-soil in such land is necessary or desirable, such officer shall give notice, in the manner prescribed, of his intention to survey the land and examine the sub-soil.

(2) It shall be lawful to the officer who gives notice under sub-section (1) at any time after fourteen days of the date of such notice—

(*a*) to enter upon and survey such land ;

(*b*) to dig or bore into the sub-soil, and to take samples of such sub-soil ;

(*c*) to place marks, and cut trenches, and where necessary to cut down and clear away any part of any standing crop, fence or jungle ;

(*d*) to do all other acts necessary to ascertain the existence and extent of any metal or mineral believed to exist in such land.

(3) The acts referred to in sub-section (2) may be performed either by the officer who gives notice, or such other person whom he authorises in writing to perform such acts.

Payment of compensation.

4. The officer mentioned in Section 3 shall, at the time of such entry, pay or tender payment for any damage which may be done by the acts aforesaid ; and in case of dispute as to the sufficiency of the amount so tendered, he shall at once refer the dispute to the decision of such authority as the Government may, by general or special order, appoint in this behalf. Such decision shall be final and payment shall be made accordingly.

Power of Government to make rules.

5. The Government may make rules

(*a*) as to the mode of service of notice under Section 3 ;

(*b*) the mode of enquiry to be made in cases of reference under Section 4 ; and

(*c*) generally to carry out the provisions of this Chapter.

LIBRARY ARCHIVES Kerala Legislative Assembly